

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

IN RE:

**DONALD EUGENE ELKINS JR
MARYANN TOLIPAS ELKINS**

**CASE NO: 08-70450
HEARING DATE: 02-16-2011
HEARING TIME: 11:00am**

A/K/A: A/K/A

2:

D/B/A: TEMPCO HEATING AIR CONDITIONING AND REFRIGERATION

D/B/A 2:

**NOTICE OF HEARING, PRE-HEARING CONFERENCE AND ATTACHED MODIFICATION OF PLAN AFTER
CONFIRMATION**

NOTICE OF HEARING

On 02-16-2011, which is at least twenty-eight (28) days from the date of service hereof, at 11:00am a **HEARING** on the above and foregoing "Modification of Plan After Confirmation" will be held in

FOR LIVE COURT

US COURTHOUSE ROOM 222

10TH & LAMAR STREETS

WICHITA FALLS, TEXAS 763011234

FOR VIDEO COURT

US COURTHOUSE ROOM 208

10TH & LAMAR STREETS

WICHITA FALLS, TEXAS 763011234

Creditors are not required to attend unless they have objections to the Modification.

NOTICE OF PRE-HEARING CONFERENCE

A **PRE-HEARING CONFERENCE** will be held at the same location listed above at 8:30am Hearings on Motions to Modify Plans with objections not resolved at the **PRE-HEARING CONFERENCE** will be heard by the Court at the scheduled Hearing time.

NOTICE is hereby given that pursuant to 11 U.S.C. 1329 the attached "Modification of Plan" dated 1/13/2011, **will be** approved by the Court as the Debtor's Modified Chapter 13 Plan unless a party in interest files a written "Objection to the Modification" within twenty-one (21) days of service hereof, and the Debtor has made any subsequent payments required under the Modified Plan. An **"Objection to Modification"** should be filed with the Bankruptcy Court at the following address:

**CLERK OF THE BANKRUPTCY CT
1100 COMMERCE 1254
DALLAS, TEXAS 752420000**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

IN RE: DONALD EUGENE ELKINS JR &
MARYANN TOLIPAS ELKINS

*
* CHAPTER 13
* CASE NO: 08-70566-HDH-13
* HEARING DATE: 2-16-2011
* HEARING TIME: 11:00 A.M.

DEBTOR(S)

TRUSTEE'S MODIFICATION OF MODIFIED CHAPTER 13 PLAN AFTER CONFIRMATION

DATE:1-13-2011

Pursuant to 11 U.S.C. 1329, the Debtor(s) (per the undersigned attorney) or the Standing Chapter 13 Trustee, requests the following Modification of Debtor(s) Confirmed Plan herein:

HISTORY OF THE CASE

1. Date Case Filed: 10/30/2008
2. Date of Section 341 Meeting: 11/25/2008
3. First Payment Date: 11/29/2008
4. Date of Confirmation: 12/18/2008
5. Total Plan Term Prior to this Modification: 60
6. Number of Months from First Payment Date through month prior to estimated month of Modification Approval: 27
7. Remaining Plan Term (subtract item 6 from the lessor of item 5 or 60 months): 33
8. Amount of Arrears through the month prior to the date the Modification is filed:\$0.00
9. Date Plan Payments are to Resume: 2-29-2011 (This must be the same month that the Modification is set for approval by the Court)
10. Total Payments **Paid** to the Trustee through the month prior to the date the Modification is filed with the clerk: \$22,989.25
11. Total Payments **Due** to the Trustee through the month prior to the date the Modification is filed with the clerk:\$22,812.25
12. Total Payments **Due** to the Trustee from the month the Modification is filed to the month the Modification is set for approval: \$0.00
13. List Dates of any Prior Orders Modifying, Interlocutory Orders, or Special Supervision Orders: Order Approving Modified Plan entered 1-7-2011

II.

MODIFICATION REQUESTED

(check 1 or more of the following 4 choices)

- ☒ X Plan payments remain at \$1,024.00 per month.
- ☐ **INCREASE/DECREASE** monthly payment from \$_____ per month to \$_____ per month (must coincide with resume date shown in item 9 above)
- ☐ Extend months from _____ months to _____ months (Not to Exceed 60 Calendar Months from Month of First Payment Date)
- ☒ X Add balloon payment of \$144.38 in 28th month (indicate how the balloon payment will be made) Trustee received payment from receivership estate

Any arrears indicated in item 8 above shall be cured by the following method:_____

III.**RESUMPTION OF PAYMENTS TO THE TRUSTEE**

(all information below must be complete)

Payments can only change as of the month the modification is approved. Payments to the Trustee in the amount of \$1,024.00 will resume on or before 2-29-2011 (item 9 above) for 35 months (item 7 above) remaining in the Modified Plan as of the date the modification is approved.

Base amount will change from \$56,604.25 to \$56,748.63

If the base amount has changed complete the following:

Total Paid in as of the month prior to Modification Approval:	\$ 22,956.63
(+) Plus Total Payments to be made through the Remainder of the plan (making up any arrears in item 8 above):	\$ 33,792.00
(=)New Base Amount	\$ 56,748.63

IV.**TREATMENT OF UNSECURED CREDITORS**

Unsecured creditors are not guaranteed a dividend when a plan is confirmed. See general order 2006-1. Allowed general unsecured claims may receive a pro-rata share of the unsecured creditors' pool, but not less than the section 1325(a)(4) amount of non-exempt property less allowed administrative and priority claims, after the TRCC becomes final. A proof of claim must be timely filed to be allowed.

☒ X The unsecured creditor pool remains \$0.00.**V.****SECURED, PRIORITY OR SPECIAL CLASS TREATMENT**

ADD/DELETE/SURRENDER/CHANGE the following Secured, Priority or Special Class Unsecured Creditor(s):

CODE; A = ADD; D = DELETE; S = SURRENDER; CF = CHANGE FROM; CT =CHANGE TO

Monthly

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Code	Name	Class	Amount	Collateral	Value	Int.	Payment Surrender Direct
_____	_____	_____	_____	_____	_____	_____	_____

or

☒ Check here if no changes are to be made to creditors

Note: Changes to any creditors above shall not be effective until the Modification is Approved.

**VI.
ATTORNEY'S FEES**

☒ Check here if no additional attorney fee has been added for this Modification of Plan after Confirmation.

**VII.
REASON FOR MODIFICATION**

This Modification is requested for the following reason(s):

Trustee received funds of \$144.38 from a receivership estate. These funds are non exempt property to be applied to the case for the benefit of unsecured creditors.

**VIII.
BUDGET INFORMATION**

At the time of filing this modification the debtor shall provide a filed marked copy of the current budget (schedules I & J) and the three most recent pay stubs to the Trustee.

Dated:1-13-2011

Respectfully submitted,

/s/ Walter O'Cheskey
TRUSTEE

Walter O'Cheskey
Chapter 13 Trustee
6308 Iola
Lubbock, TX 79424
202-II

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NOTHERN DIVISION OF TEXAS
WICHITA FALLS DIVISION

IN RE:

DONALD EUGENE ELKINS JR & MARYANN TOLIPAS ELKINS

CASE NO: 08-70450-HDH-13

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached document was sent via First Class Mail to the below listed parties at the addresses supplied as follows.

Name & Address	Name & Address
DONALD EUGENE ELKINS JR 2308 ANTIGUA WICHITA FALLS, TX 76308	MARYANN TOLIPAS ELKINS -
WICHITA COUNTY PO BOX 1471 WICHITA FALLS, TX 76307-1471	INTERNAL REVENUE SERVICE SPECIAL PROCEDURES 1100 COMMERCE ST MC 5027DAL DALLAS, TX 75242-
INTERNAL REVENUE SERVICE PO BOX 7317 PHILADELPHIA, PA 19101-7317	UNION SQUARE FEDERAL C/U PO BOX 6050 SHEPPARD AFB, TX 76311-0000
INTERNAL REVENUE SERVICE PO BOX 7346 PHILADELPHIA, PA 19101-7346	WALTER O'CHESKEY TRUSTEE 6308 IOLA AVENUE LUBBOCK, TX 79424-0000
OFFICE OF THE CH13 TRUSTEE 6308 IOLA AVENUE LUBBOCK, TX 79424-	BURKBURNETT ISD PO BOX 608 BURKBURNETT, TX 76354-0000
MONTE J WHITE ATTORNEY AT LAW 1106 BROOK AVE HAMILTON PLACE WICHITA FALLS, TX 76301-0000	US ATTORNEY GENERAL 10TH ST & CONSTITUTION AVE WASHINGTON, DC 20530-0000
UNITED STATES ATTORNEY 801 CHERRY STREET UNIT 4 FT WORTH, TX 76102-6882	UNION SQUARE FEDERAL C/U 1401 HOLLIDAY WICHITA FALLS, TX 76301-0000
BANK OF AMERICA BANKRUPTCY DEPARTMENT PO BOX 26012 GREENSBORO, NC 27420-6012	WILLIAM T NEARY UNITED STATES TRUSTEE 1100 COMMERCE STREET RM 976 DALLAS, TX 75242-0000
US ATTORNEY ATTORNEY IN CHARGE 1100 COMMERCE STREET SUITE 300 DALLAS, TX 75242-1699	BANK OF AMERICA NC4-105-03-14 PO BOX 26012 GREENSBORO, NC 27420-0000
INDYMAC BANK 6900 BEATRICE DRIVE KALAMAZOO, MI 49009-0000	HANK RUGELEY, ESQUIRE DAVISON RUGELEY LLP 900 EIGHTH STREET SUITE 1102 WICHITA FALLS, TX 76301-
RECOVERY MANAGEMENT SYSTEMS CORP 25 SE 2ND AVENUE STE 1120 MIAMI, FL 33131-	NCO FINANCIAL SYSTEMS PO BOX 61247, DEPT 64 VIRGINIA BEACH, VA 23466-

CERTIFICATE OF SERVICE

CREDIT COLLECTIONS 2915 N CLASSEN BLVD OKLAHOMA CITY,OK 73106-	VERIZON WIRELESS PO BOX 3397 BLOOMINGTON,IL 61702-
PORTFOLIO RECOVERY ASSOCIATES PO BOX 41067 NORFOLK,VA 23541-	VERIZON WIRELESS PO BOX 105378 ATLANTA,GA 30348-
SCOTT LOWERY LAW OFFICE 1422 EAST 71ST ST STE B TULSA,OK 74136-	FIDELITY BANK 2525 KELL BLVD STE 100 WICHITA FALLS,TX 76308-
CITI MORTGAGE PO BOX 689196 DES MOINES,IA 50368-9196	SAMS CLUB C/O GE MONEY BANK PO BOX 103104 ROSWELL,GA 30076-
BANK OF AMERICA PO BOX 660687 DALLAS,TX 75266-0687	DISCOVER FINANCIAL SERVICES PO BOX 3025 NEW ALBANY,OH 43054-
PORTFOLIO RECOVERY ASSOCIATES LLC PO BOX 12914 NORFOLK,VA 23541-	BANK OF AMERICA PO BOX 15026 WILMINGTON,DE 19850-
ROUNDUP FUNDING LLC PO BOX 91121 MS 550 SEATTLE,WA 98111-9221	WELLS FARGO FINANCE 2501 SEAPORT DRIVE SUITE BH30 CHESTER,PA 19013-
WELLS FARGO AUTO FINANCE PO BOX 500 MAC F 6582034 CHESTER,PA 19013-	CITY OF WICHITA FALLS, WF ISD AND COUNTY C/O PERDUE BRANDON FIELDER COLLINS & MOT PO BOX 8188 WICHITA FALLS,TX 76307-8188
LINEBARGER GOGGAN ET AL PO BOX 17307 AUSTIN,TX 78760-	CACH 4340 S MONACO ST, 2ND FLOOR DENVER,CO 80237-
CITI MORTGAGE INC PO BOX 79022 MS 322 ST LOUIS,MO 63179-	CITI ATTN CENTRALIZED BANKRUPTCY PO BOX 20507 KANSAS CITY,MO 64195-
BARRETT DAFFIN FRAPPIER TURNER & ENGEL LLP 1900 ST JAMES PLACE SUITE 500 HOUSTON,TX 77056-	INDYMAC BANK 7700 W PARMER LN BLDG D 2ND FLOOR AUSTIN,TX 78729-
BANK OF AMERICA PO BOX 22033 GREENSBORO,NC 27420-	P & B CAPITAL GROUP PO BOX 25197 TAMPA,FL 33622-
PRA RECEIVABLES MANAGEMENT PORTFOLIO RECOVERY ASSOC PO BOX 12914 NORFOLK,VA 23541-	PRA RECEIVABLES MANAGEMENT PORTFOLIO REC ASSOC PO BOX 41067 NORFOLK,VA 23541-

CERTIFICATE OF SERVICE

CAPITAL ONE
6125 LAKEVIEW ROAD, STE 800

CHARLOTTE,NC 28269-

Dated: 01/13/2011

/s/ Walter O'Cheskey
Chapter 13 Trustee
By: Kathleen